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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,037	07/10/2001	Peter R. Bloeme	14081/255319	7782

23370 7590 06/05/2002

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EXAMINER

FRANCIS, FAYE

ART UNIT PAPER NUMBER

3712

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/902,037

Applicant(s)

BLOEME ET AL.

Examiner

Faye Francis

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the proper antecedent basis should be provided in the specification for the requirement in claim 7 that the annular rim has a thickness of 0.093 inches, the diameter of the annular rim is less than 9 inches in claim 8 and for the requirement in claim 9 that a ratio of a height of the flight plate to a diameter of the annular rim is less than 1 to 9. Additionally, the proper antecedent basis should be provided in the specification for the requirements in claim 10 that the disc and having a diameter less than 9 inches and a thickness of at least 0.093 inches and that flight plate and transition area having a thickness greater than 0.90 inches; wherein a ratio of a height of the flight plate to a diameter of the annular rim is less than 1 to 9.

### ***Claim Objections***

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). Additionally, if there are several claims, they shall be numbered consecutively in Arabic numerals. See MPEP 608.01(i).

Misnumbered claims c1 to c17 have been renumbered 1-16.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-6 and 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 4 and 14: the phrase “the first and second gripping surfaces are comprised of uni-directional surfaces having a low profile” is confusing. What are uni-directional surfaces?

Claims 5 and 15 are indefinite since all that the applicant considers to be encompassed by the phrase “the first and second gripping surfaces are comprised of segmented, staggered, uni-directional surfaces” cannot be determined. For example does the phrase require segmented or staggered or uni-directional surfaces, segmented and staggered and uni-directional surfaces or some other combination? Also, it is not clear what the applicant refers to as “having a low profile”.

Claims 6 and 16 are drafted in such a way that they appear to be entirely functional. The claim is vague and indefinite because, the additional structure sought to be encompassed in the claim cannot be determined. It is not clear what the claimed movement refer to.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell et al, hereinafter Mitchell.

Mitchell discloses in Fig 2, a disc for being thrown in the air, comprising: an annular rim 12 formed along an outer periphery of the disc, a flight plate [annular section 10] formed in a central portion of the disc, a transition are [curvature 17] joining the annular rim to the flight plate and presenting a sloped surface between the annular rim and the flight plate, a first gripping surface formed on an upper side of the disc, a second gripping surface formed on a lower side of the disc [any area on the top or on bottom surface of the disc can be considered as the first and second gripping surfaces respectively] wherein the first and second gripping surfaces provide frictional surfaces to a person throwing the disc as recited in claims 1 and 10. Additionally, Mitchell discloses the first and second gripping surfaces are comprised of segmented raised surfaces as recited in claims 2 and 12, the first and second gripping surfaces are comprised of staggered raised surfaces as recited in claims 3 and 13.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell.

Mitchell discloses most of the element in these claims as stated in paragraph 4.

Mitchell does not disclose the annular rim has a thickness of 0.093 inches as recited in claim 7, the diameter of the annular rim is less than 9 inches as recited in claim 8, Additionally, Mitchell does not disclose the ratio of a height of the flight plate to a diameter of the annular rim is less than 1 to 9 as recited in claim 9.

With respect to claims 7-10, it would have been obvious to provide the disc of Mitchell in the claimed dimensions for the purpose of making the devices easier to play with.

7. Claims 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell as applied to claims 1-6 above.

Mitchell discloses most of the element in these claims but for the annular rim has a thickness of 0.093 inches as recited in claim 10, the diameter of the annular rim is less than 9 inches as recited in claim 8, Additionally, Mitchell does not disclose the ratio of a height of the flight plate to a diameter of the annular rim is less than 1 to 9 as recited in claim 10.

With respect to claim 10, it would have been obvious to provide the disc of Mitchell in the claimed dimensions for the purpose of making the devices easier to play with.

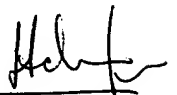
***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 703-306-5941. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

FF  
May 29, 2002

  
Jacob K. Ackun  
Primary Examiner